

## North Yorkshire Local Access Forum

Minutes of the meeting held in the Restaurant Meeting Room, County Hall, Northallerton on 27 June 2012, commencing at 9.30 am.

### **Present:-**

John Taylor in the Chair.

Rachel Connolly, Edward Dennison, County Councillor John Fort, and Pat Whelan.

Officers:- Penny Noake (Countryside Service) and Jane Wilkinson (Legal and Democratic Services).

Apologies for absence were received from David Gibson, Tom Halstead, Leo Crone and Catherine Wardroper.

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**Copies of all documents considered are in the Minute Book**

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### **156. Minutes**

#### **Resolved –**

That the Minutes of the meeting held on 23 May 2012, be agreed as a correct record and be signed by the Chairman.

### **157. Matters Arising**

**None**

### **158. Public Questions or Statements**

There were no statements or questions from members of the public.

### **159. DEFRA Consultation – ‘Improvements to the Policy & Legal Framework for Public Rights of Way’**

The Chairman sought the approval of the Forum of the draft response appended to the agenda.

Members suggested the following amendments to the responses to the questions in Annexe A .

Question 22

Definitive tariffs made available at the time of application.

Question 23

Delete the words ‘should be required’.

Question 24

Yes, as it might enable more work to be carried out with the same rights of way budget. It should not however lead to a reduction of any rights of way budget on the assumption that a certain percentage of the work would be landowner funded.

**Question 27**

The following words to be added to the draft response appended to the agenda. 'Developers should be required to consult on options for Rights of Way changes before submitting formal plans or applications'.

**Question 29**

Delete the first word 'Probably' and replace with the word 'Yes'.

Members agreed that the covering letter accompanying the response should make it clear that the structure of local government in North Yorkshire is two-tier which creates problems that unitary local authorities do not encounter.

The Chairman thanked Members for their comments and agreed to draft a covering letter to be circulated to all Members together with a copy of the amended response as agreed at the meeting.

**Resolved –**

That the amendments suggested by Members during the meeting and recorded in the preamble to this minute be approved.

That the amended response (copy appended to the Minutes) be approved and submitted to DEFRA along with a covering letter to be drafted by the Chairman.

**160. Natural England Discussion Paper on the Future Management of National Trails From April 2013'**

The Chairman sought the approval of Forum to submit to Natural England its draft response appended to the agenda.

Members of the Forum endorsed the draft response.

**Resolved –**

That the response of the North Yorkshire Local Access Forum (copy appended to the agenda) to the discussion paper on the Future Management of National Trails agenda be approved and submitted to Natural England.

**161. NYCC Review of the Rights of Way Improvement Plan 2 – Draft Response of the Forum**

The Chairman invited the Forum to comment on and approve its response to the review of North Yorkshire County Council's Rights of Way Improvement Plan. A copy of the draft response was appended to the agenda.

Members suggested the following revisions be made to the draft response:-

Section 5 Objectives – Question 8

Replace the word 'passages' with the word 'facilities'

Bullet point 4

Delete everything after the word 'sensitive' and replace with the word 'way'.

Rachel Connolly made a general comment that the overriding priority of the ROWiP was on maintenance. She was concerned that this focus on maintenance could fetter creativity and innovation when seeking to make improvements in the widest sense to the rights of way network.

**Resolved –**

That the amendments suggested by Members during the meeting and recorded in the preamble to this Minute be approved.

That the Chairman on behalf of the North Yorkshire Local Access Forum submit the amended response to North Yorkshire County Council.

- 162. The Chairman agreed that the following item be dealt with as an item of urgent business because of the need to bring to the attention of North Yorkshire County Council concerns about provision for non-motorised users before the scheme was adopted.**

- 163. A1 Upgrade to Motorway Dishforth To Barton, North Yorkshire – Non Motorised Users Provision**

It was reported that following a recent inspection of the A1 upgrade concerns had been raised by a representative of the British Horse Society about the inadequacy of the provision for non-motorised users. It was claimed that the provision on the ground did not conform to that promised at a Public Inquiry held three years ago. Concerns about personal safety meant that local horseriders were too afraid to use the new roads and crossings that had been provided.

Work on the project was in the final stages. A third and final safety audit was due to take place at the end of June after which future responsibility for maintenance of the scheme would be transferred to the County Council. Despite objections being raised with both the developers and the Highways Agency these had been dismissed and no remedial works were planned.

Rachel Connolly said that as it stood the provision for non motorised users was not fit for purpose. She sought the support of the Forum to write to the Chief Executive of the County Council to highlight the concerns of the British Horse Society and to request that the County Council refuse to adopt the scheme until it complied with what had originally been agreed at the Public Inquiry. She also requested that the Forum as a statutory advisory body send letters of complaint to William Hague MP, the Highways Agency and the Ministry of Transport.

County Councillor John Fort said that based on his previous experience as the Executive Member for Highways and Planning Services all highways schemes before being adopted would be subject to a lengthy period of negotiation. He suggested that the current position of the scheme be verified before any letters were sent.

A lengthy debated followed on the approach the Forum should adopt during which conflicting views were expressed.

The majority of Members finally agreed to write to the NYCC Corporate Director Business & Environmental Services bringing to his attention the concerns of the British Horse Society and asking him to the respond in writing. Dependent upon the response received further action if necessary to be agreed at the next meeting.

## **Resolved**

That the Chairman on behalf of the North Yorkshire Local Access Forum write to David Bowe, NYCC Corporate Director Business & Environmental Services highlighting concerns about provision for non-motorised users on the A1 upgrade.

### **164. Date of Next Meeting**

#### **Resolved –**

That the next meeting take place on Wednesday 19 September at 10.00 am at County Hall Northallerton.

The meeting concluded at 11.20 am.

JW/ALJ

Annex 1

North Yorkshire Local Access Forum's response to Defra Consultation – 'Improvements to the Policy & Legal Framework For Public Rights of Way'.

### **Annex A – List of questions on the consultation proposals**

1. Do you agree that there should be a brief, post cut-off period during which applications that pass the basic evidential test can be registered?  
**Yes**
2. Do you agree that during this period, local authorities should be able to register rights of way by self application, including any self applications made in the past, subject to the same tests and transparency as for any other applications?  
**Yes**
3. Are there any other categories of rights of way that need to be protected by exceptions set out in regulations?  
**Yes. Ratione Tenurae routes**
4. Do you agree that the [Stakeholder Working Group's] proposals [in paragraphs 6.1-6.12] would be effective in improving the process of recording rights of way?  
**Yes**
5. Do you think that more use could be made of electronic communications, for example, to make definitive map modification order applications online and to serve notice of rights of way orders?  
**Yes, but not the sole way.**
6. Are there any particular issues associated with these proposals which have not been captured and which we should consider?  
**The issue is the clarity of the way in which the revised legislation is worded and presented. We recommend a single new piece of legislation replacing and consolidating the existing law and regulations.**
7. Do you think that the mechanism [proposed in paragraph 7.2 and annex B], would work effectively? (There is a typo here in Annex A - in the document this question refers to para 6)  
**There are slight inherent risks.**

8. Do you think that there would be a residual risk that it would be in a local authority's interests to decline to make an order in the first place?  
**Yes**
9. Do you think that the alternative mechanism set out [in paragraph 7.3] would work effectively? ? there is no para 7.3 in the document This should be para 6(3)  
**Probably. It might encourage the making of opposed orders more quickly.**
10. Do you have any other suggestions for ensuring that cases go to the Secretary of State only once?  
**No**
11. Do you agree that applicants and affected owners should be able to seek a court order requiring the authority to determine an outstanding definitive map modification order application?  
**Yes**
12. Do you think this is an appropriate way to resolve undetermined definitive map modification order applications?  
**Yes, but we do not like the word 'resolve' as the courts must not become involved in the merits of the case, just the moving on of it.  
This would impose a time limit for the making of an order but the court should not be involved with the merits of the application.**
13. Do you have any suggestions for alternative mechanisms to resolve undetermined definitive map modification order applications?  
**No but we are not clear what the issue is that causes this question to be asked**
14. Do you have any suggestions on how a process might work, which would enable an appropriate diversion to be agreed and put into effect before the way is recorded and brought into use?  
**We think that it would require a legal agreement to be drawn up between the LA, the landowner & tenant and the applicant (possibly with the agreement of user bodies) setting out the unrecorded route, the proposed route, the procedures to be followed and the position if the unrecorded route is not found to be a RoW at the end of the procedure.**
15. What aspects of data management systems for recording public rights of way need to be tackled?  
**We do not think we are qualified to advise.**
16. What are the key outcomes that need to be achieved in terms of data management systems?  
**Any system should be comprehensive and standard over all authorities. Ease of use including internet accessibility and accuracy are essential. Both the Definitive Map and Statement should be included and where no statement was included when the map was established a new statement should be added with the date when it was surveyed.**
17. Do you agree that the proposals identified in [Part 2] should be applied to the policy and legislation governing public path orders?  
**Yes The simplifications set out in para 20 should include a simple system for dealing with small anomalies in the existing Definitive Map and Statement**

18. Do you think that more use could be made of electronic communications for public path orders, in similar ways to those suggested for definitive map modification orders in Question 5?  
**Yes**
19. Do you agree that enabling local authorities to recover their costs in full would incentivise them to pursue public path orders requested by landowners or managers?  
**Yes. Public path orders, but not DMMOs**
20. Would local authorities be incentivised sufficiently to enable retention of a right of appeal to the Secretary of State without the risk of local authorities shifting the burden and cost of ordermaking onto the Secretary of State?  
**Yes**
21. Should the proposed arrangements apply to all public path orders and not just to land used for agriculture, forestry, or the keeping of horses?  
**Yes**
22. How could it be made clear what charges are levied for each stage of the public path order-making process and that the charges reflect the costs actually incurred?  
**Definitive tariffs made available at the time of application**
23. Do you think that landowners should have the option of outsourcing some of the work once a public path order is made in order to have more control over the costs?  
**Yes, but with the proviso that any remedial work would be chargeable if the work fell below required standard or does not comply with the order and if it is not completed within an agreed timescale the LA to do the work and charge accordingly. The existing route to remain usable until the new work is completed and certified.**
24. Might this [full cost recovery for public path orders] have an impact on other aspects of rights of way work?  
**Yes as it might enable more work to be carried out with the same rights of budget. It should not however lead to a reduction of any rights of way budget on the assumption that a certain percentage of work would be landowner funded.**
25. Are there any alternative mechanisms [to full cost recovery for public path orders] that should be considered?  
**No**
26. Under Option A [in Part 4], how do you think wider adherence to existing guidance might be achieved?  
**By tighter wording, or guidance becoming mandatory.**
27. What do you think would be the best option to minimise the cost and delay to developers while safeguarding the public interest on public rights of way?  
**Option C. We do not consider the cost or delay to developers should in any way be of greater consideration than the protection of public access. We like the idea of encouraging developers to consult on options for RoW before submitting formal plans or applications. Developers should be required to consult on option for rights of way changes before submitting formal plans or applications.**
28. Are there other options that should be considered [to minimise the cost and delay to developers while safeguarding the public interest on public rights of way]?  
**No**

29. Do you think that enabling a single application form to be submitted through the Planning Portal would improve the process?

**Yes. It is important that somewhere (possibly on the planning application form or on the planning permission or diversion order) that it should be made clear that if a development fails to take place, then the diversion or extinguishment of the right of way should be deemed invalid and the original way remain.**

**There were also a further 33 questions arising from the Stakeholder Working Group, many of them about costs, assessments and impacts that this Local Access Forum considered it has not the necessary knowledge or expertise to make valid comments.**